

REMARKS

Claims 1-12 were previously pending. Claims 1, and 10-12 have been amended, new claims 13-14 have been added, and claim 7 has been canceled without prejudice or disclaimer by way of this response. No new matter has been added by way of these amendments. Claims 1-6 and 8-14 are now pending in this application. Applicant respectfully requests reconsideration of the instant application in view of the foregoing amendments and the following remarks.

Rejection Under 35 USC § 112

Claims 1-12 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner disagrees with the Applicant's statement that support for amended claim exists throughout the specification. To further clarify that support, and by way of example only, Applicant directs the Examiner's attention to p.8, ¶ 2 to p. 9, ¶ 4 of the specification, describing the structuring of specific transactions manageable by the Seller Risk Auction Platform so as to be in compliance with appropriate regulations. For example, p. 9, ¶ 2 describes how, "[r]einsurance transactions can be structured and offered in a manner that will comply with all applicable federal, state and foreign laws and regulations..." Applicant also, by way of example only, directs the Examiner's attention to p. 4, ¶ 3-4 and p. 6, ¶ 2-3 for additional support. Accordingly, Applicant submits that no new matter was added in the Amendment dated September 5, 2006 and requests withdrawal of this ground of rejection.

Rejection Under 35 USC § 103(a)

Claims 1-12 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Examiner's assertion of Wallman (US 6,360,210), in view of King (US 5,704,045) and Examiner's official notice comprising general remarks on merchandise auction systems (e.g., ebay.com). Applicant respectfully traverses the Examiner's official notice and submits that the reference provided does not support the asserted proposition that auction rules/procedures are old and well known within the context of the elements recited in the claims. Furthermore, Applicant respectfully traverses the Examiner's rejection and submits that claims 1-12 are clearly distinguishable from the cited references.

Amended claim 1 recites, *inter alia*:

A computer implemented method for auctioning risk associated with a financial transaction, the method comprising:

...
 receiving a bid to assume a portion of the risk as part of a risk transaction into the host computer, wherein the bid is based on a yield required;
 ensuring a compliance of the risk transaction with a set of risk auction rules and procedures applicable to a relevant category of risk transactions; and
 allocating a portion of the risk to a bidder submitting an acceptable bid for compliant transactions.

Applicant submits that the cited references in no way teach, disclose, or suggest at least receiving a bid to assume a portion of the risk as part of a risk transaction into a host computer, wherein the bid is based on a yield required; ensuring a compliance of the risk transaction with a set of risk transaction rules and procedures applicable to a relevant category of risk transactions; and allocating a portion of the risk to a bidder submitting an acceptable bid for compliant transactions as recited in the claims.

According to MPEP §706.02(j), a rejection under 35 U.S.C. §103 should set forth the following four components:

(A) the relevant teaching of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate,

(B) the difference or differences in the claim over the applied reference(s),

(C) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and

(D) an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification. [See MPEP §706.02(j), ¶1]

Applicant submits that the Examiner has not clearly delineated the difference or differences in the claim over the applied references, the proposed modification of the applied references necessary to arrive at the claimed subject matter, and an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.

In the August 8, 2007 Office Action, the Examiner asserts:

In response to applicant's argument that King does not teach "ensuring compliance of a risk transaction with a set of applicable risk auction rules and procedures", per office action secondary reference King teaches "risk transfer" (see page 4 of office action). In case of compliance to rule auction (see page 3 last paragraph), examiner took an official notice and provided an example of ebay.com. Enclose with this office action is a copy ebay.com's web pages which support examiners position. [See Office Action, Page 6, ¶ 1.]

Applicant respectfully submits that the copy of ebay.com's web pages enclosed merely describes basic rules and procedures specifically directed to ebay.com's shopping system. As ebay.com's system does not discuss and cannot handle the complexities and specific subtleties of facilitating auctions for risk transactions, nothing in the ebay.com documentation provided by the Examiner teaches, discloses, or suggests the claim element. Instead, Applicant submits the claimed elements are non-analogous to online shopping systems, such as ebay.com. By way of example only, Applicant directs the Examiner's attention to p.8, paragraph 2 to p. 9, paragraph 2 of the instant specification as one possible example implementation of the claimed invention.

Moreover, Applicant submits claim 1 has been amended to better cover inventive aspects that are more relevant to applicant's current business. For example, Applicant has amended independent claim 1 to recite, "ensuring a compliance of the risk transaction with a set of risk auction rules and procedures applicable to a relevant category of risk transactions," whereby the rules and procedures are connected to the various types of risk auction transactions that the platform is configurable to mediate. General rules for an online shopping system auctioning ordinary goods and services would clearly be insufficient for such transactions. For example, a bidder in the context of the present invention may be allowed to specify what portion of the underlying risk he proposes to assume, a price bid, and/or an expected yield for that assumption.

Furthermore, the intermediation of reinsurance transactions may be subject to specific federal, state and foreign laws, and the present invention may be configured to structure bidding and transactions to comply therewith (See p. 9, ¶ 2 of the specification). Quite simply, risk auctions as claimed (and discussed by way of example only, on p. 8 of the specification) are not analogous to bidding on a used toaster. The multiple possible degrees of freedom for risk auctions manageable by the present invention (e.g., portion of risk to be assumed, yield required, fixed yield vs. spread to a benchmark, acceptable notional amount, etc.) are plainly beyond the scope of ebay.com's ordinary system for transacting simple goods and services. Accordingly, Applicant submits ebay's auction of goods and services would not render obvious the claimed invention.

Applicant further submits that King's system fails to remedy the deficiency in Examiner's official notice. The cited passages from King's disclosure are directed to interaction between "specialists" and underwriters [col. 6, lines 15-24]; underwriter analysis and reporting of

risk characteristics "to determine the amount of capital matching support required to accept the proposed risk and the minimum premium level which would justify its acceptance" [col. 10 lines 1-18]; the facilitation of communication between risk exchanging parties, allocation of reserve funds, and effecting external regulation and fiduciary oversight for risk transactions [King's claims 1-2]; ensuring the existence of sufficient reserve funds to assure "compliance with the entity's risk to capital matching system" [claim 23]; and "a means of providing supporting risks" [King's claim 42]. There is nothing in King's system that teaches, discloses, or suggests "auction rules and procedures", as there is never a discussion of risk auctioning in the first place. Furthermore, the Examiner has provided no explanation as to why one of ordinary skill in the art at the time the invention was made would have been motivated to modify and/or combine any of the cited references.

In summary, for at least the foregoing reasons, Applicant submits that independent claims 1 and 10-13, as well as the claims directly or indirectly dependent thereon are patentably distinct from the cited references taken alone or in combination. Accordingly, Applicant requests withdrawal of these grounds of rejection. If the Examiner wishes to maintain his rejection, Applicant respectfully requests that the Examiner specifically describe the proposed modification of the applied references necessary to arrive at the claimed subject matter and provide an explanation as to why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.

Finally, Applicant submits that independent claim 1 has been amended to incorporate aspects of subject matter previously recited in dependent claim 7. Applicants submit that claim 1 was amended to further clarify inventive aspects of the claims. The Examiner previously rejected dependent claim 7 based on Wallman: "Wallman discloses additionally

comprising the step of basing bids upon a yield requirement ... [C9 L50 to C11 L20]." (See Office Action, p. 5 ¶ 1). Applicant traverses this rejection and submits that the cited portion of Wallman merely provides a general discussion of portfolio analysis and development of hedging strategies. At no time does Wallman teach, disclose, or suggest "basing bids upon a yield requirement," as the cited portion never discusses bids nor yields on risks in the first place. Accordingly, Applicant's respectfully request withdrawal of this basis for rejection and allowance of the pending claims.

CONCLUSION

Consequently, the reference(s) cited by the office action do not result in the claimed invention, there was/is no motivation for such a combination of references (i.e., cited references do not teach, read on, suggest, or result in the claimed invention(s)), and the claimed inventions are not admitted to be prior art. Thus, the Applicant respectfully submits that the supporting remarks and claimed inventions, claims 1-6 and 8-14, all: overcome all rejections and/or objections as noted in the office action, are patentable over and discriminated from the cited reference(s), and are in a condition for allowance. Furthermore, Applicant believes that the above remarks, which distinguish the claims over the cited reference(s), pertained only to noted claim element portions. These remarks are believed to be sufficient to overcome the prior art. While many other claim elements were not discussed, Applicant asserts that all such remaining and not discussed claim elements, all, also are distinguished over the prior art and reserves the opportunity to more particularly remark and distinguish such remaining claim elements at a later time should it become necessary. Further, any remarks that were made in response to an Examiner objection and/or rejection as to any one claim element, and which may have been re-asserted as applying to another Examiner objection and/or rejection as to any other claim

element(s), any such re-assertion of remarks is not meant to imply that there is commonality about the structure, functionality, means, operation, and/or scope of any of the claim elements, and no such commonality is admitted as a consequence of any such re-assertion of remarks. As such, Applicant does not concede that any claim elements have been anticipated and/or rendered obvious by any of the cited reference(s). Accordingly, Applicant respectfully requests allowance, and the reconsideration and withdrawal of the rejection(s) and/or objection(s).

If a telephone conference would facilitate prosecution of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 03-1240, Order No. 17209-012.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 03-1240, Order No. 17209-012

Respectfully submitted,
CHADBOURNE & PARKE, L.L.P.

Dated: November 8, 2007

By: /Walter G. Hanchuk/
Walter G. Hanchuk Reg. No. 35,179

Chadbourne & Parke LLP
30 Rockefeller Plaza
New York, NY 10112
212-408-5100 Telephone
212-541-5369 Facsimile